

4. JUVENILE DELINQUENCY CASES

Attorneys who wish to accept juvenile delinquency cases in the District and Juvenile Court must (1) apply for admission into a county bar advocate program; (2) be accepted into the panel of attorneys of a county bar advocate program; and (3) complete a required training program. For information on becoming a bar advocate, contact the program in the counties in which you wish to practice. A directory of these programs is included at the end of this manual. No attorney may be a member of more than two bar advocate programs, except attorneys certified as bilingual by the Committee.

Training Requirement

The training requirement is satisfied by attendance at a five-day seminar, Zealous Advocacy. The program is administered through Massachusetts Continuing Legal Education (MCLE) several times a year. Applications are in the MCLE course catalogue. A schedule of training programs and registration information can be obtained by contacting MCLE (617/350-7006) or the CPCS Training Unit (617/482-6212).

Certification

Attorneys who complete the training requirement are certified to represent indigent clients in juvenile delinquency proceedings in the Juvenile Courts and the juvenile session of District Courts, except for potential Youthful Offender matters (see below). Attorneys may also represent indigent juveniles charged with potential Youthful Offender matters in the Juvenile Courts and juvenile sessions of the District Courts for arraignment and bail hearings only. If the attorney is not Youthful Offender certified, s/he must immediately notify the Bar Advocate Program of the need for prompt reassignment of a potential Youthful Offender case after the arraignment.

Dangerousness hearings under G. L. c. 276, Sec. 58A are considered substantial proceedings in the case, requiring the same certification as the case in chief. Dangerousness hearings in potential Youthful Offender cases must be handled by Youthful Offender certified attorneys only. If a dangerousness hearing in a potential Youthful Offender case is requested by the prosecutor, assigned counsel lacking certification to handle the case in chief should request a brief continuance and immediately notify the Bar Advocate Program to promptly reassign the case.

Potential Youthful Offender matters involve defendants between the ages of 14 and 17 on the date of the alleged offense, who are either:

- 1) charged with an offense included in the CPCS list of presumptive Youthful Offender matters (see below, under Youthful Offender Certification) regardless of whether the prosecutor obtains an indictment;
- or

2) charged with any other offense, and the prosecutor indicts the juvenile.

If the juvenile (aged 14-17) is charged with an offense on the CPCS Presumptive Youthful Offender list, regardless of whether the prosecutor seeks to indict the juvenile, then a juvenile delinquency certified attorney may represent the client at the arraignment only. The attorney must notify the court and local bar advocate program to assign a Youthful Offender attorney who will represent the client after the arraignment.

If the juvenile (aged 14-17) is charged with an offense not included in the CPCS Presumptive Youthful Offender list, and the prosecutor obtains an indictment, the juvenile delinquency certified attorney may represent the client only until the indictment is obtained. Once the juvenile is indicted, the attorney must immediately notify the court and local bar advocate program to assign a Youthful Offender attorney who will represent the client after the post-indictment arraignment.

Separate certification is required to handle CHINS, care and protection, and termination of parental rights cases (see CAFL certification sections of this chapter regarding these cases).

Assignment of Cases

Juvenile Court and District Court cases are assigned through the county bar advocate programs.

Performance Requirements

Attorneys who accept assignment on juvenile delinquency cases must represent their clients at all stages of the delinquency proceeding in the Juvenile and District Court.

In the event of a final conviction in the Juvenile Jury Session or the District Court Jury of Six Session, it is the responsibility of the trial attorney to file a Notice of Appeal and Motion to Withdraw and to notify CPCS of the need for appellate counsel to be appointed.

By accepting juvenile delinquency cases, attorneys agree to abide by the CPCS Performance Standards Governing Representation of Indigent Juveniles in Delinquency and Criminal Cases, which are found in this manual.

5. YOUTHFUL OFFENDER CASES

Attorneys who wish to accept assignments in Youthful Offender cases must (1) meet the minimum requirements, and (2) apply and be accepted to the panel.

Application Procedure:

In order to apply, attorneys must have tried at least five (5) jury trials to completion within the past five years as lead counsel. (Attorneys who have tried at least four jury trials to completion in the past five years may also apply, if they provide additional documentation demonstrating outstanding credentials, experience and recommendations.)

Attorneys with the above minimum qualifications who are interested in being trained and becoming a member of this panel must send a letter in application to Helen Fremont, detailing their most recent (and most serious, or complicated) five jury trials tried to completion in the past five years in which they were lead counsel, including the following information: name of the case; date(s) of the trial; name of the court, judge, and prosecutor; charges; length of trial; issues presented; experts or other forensic specialists used as witnesses; a brief summary of the case; and any other relevant material. Additionally, attorneys must send a recent writing sample of 3-5 pages.

Your letter of application should be sent to:

Helen Fremont, Staff Counsel
Committee for Public Counsel Services
44 Bromfield Street
Boston, MA 02108

Training Requirement:

Upon your acceptance, you will be notified of the next scheduled training program.

Certification:

Attorneys certified for Youthful Offender cases may accept assignments in the following cases:

For the specific charges listed below, if the defendant was between the ages of 14 and 17 on the date of the alleged offense, only attorneys who are certified for Youthful Offender cases may be assigned to these cases, regardless of whether the prosecutor intends to indict the defendant.

Charges Requiring Youthful Offender Certification	Statute	Offense Codes
Aggravated Rape	C.265, s.22	631
Armed Assault w/int Rob/Murder	C.265, s.18	623, 624, 625
Armed Assault in a Dwelling	C.265, s.18A	626

Armed Burglary and Assault on Occupant	C.266, s.14	200
Armed Robbery	C.265, s.17	621, 622
Assault & Battery on Retarded Person	C. 265, s. 13F	
Assault w/int Maim with Inj	C.265, s.14	611
Assault w/int Maim/Kill/Murder	C.265, s.15	S08, 613, 614
Assault w/int Rape	C.265, s.24	636, 637, 638, 639
Attempted Murder	C.265, s.16	S46
Attempted Arson	C.266, s.5A	S80
Burglary and Assault in a Dwelling	C.266, s.14	201
Burning a Dwelling House	C.266, s.1	500
Burning a Public Building	C.266, s.2	501, 502
Carjacking	C. 265, s. 21A	
Carrying Firearm w/o Lic.	C.269, s.10 (A, D)	702, 703
Gun Cases	C.269, para (a), (c), (d), or (j) of s.10 or s.10E	702, 703, 704, 705, 706, 707
Home Invasion	C.265, s.18C	666
Indecent Assault and Battery	C.265, s.13B, F, H	S41, 606, 607, 610
Kidnapping	C.265, s.26	640
Manslaughter	C.265, s.13	603
Mayhem	C.265, s.14	612
MV Homicide	C.90, s.24G	050, 052, 053, 054, 055, 056, 057
Poss Shotgun Barrel Under 18"/Machine Gun	C.269, s.10C	704, 705, 706
Rape	C.265, s.22, 22A, 25	632, 633, 634, 635
Statutory Rape	C.265, s.23	S01

Only the above enumerated charges will require assignment of a Youthful Offender attorney, REGARDLESS of the prosecutor's intent to indict.

Attorneys who are not Youthful Offender certified, but who are juvenile delinquency certified, may accept assignment of the above listed cases FOR ARRAIGNMENT ONLY. Delinquency certified attorneys must immediately notify the court and the bar advocate program that they can only represent the client at arraignment; assignment of a Youthful Offender certified attorney must be made immediately after the arraignment.

ALL OTHER DELINQUENCY CASES: Attorneys who are certified to handle juvenile delinquency cases can handle all other delinquency cases NOT LISTED ABOVE **until** the prosecution indicts the defendant as a Youthful Offender. **At that time**, if the attorney is not Youthful Offender certified, s/he must withdraw from the case, notify the client, court, and bar advocate program, and a Youthful Offender attorney must be reassigned to the case.

Assignment of Cases:

Youthful Offender certified attorneys may be assigned Youthful Offender cases in Juvenile Court and in the juvenile session of the District Court as bar advocate duty attorneys, or may receive assignments from bar advocate programs immediately after arraignments handled by bar advocate duty attorneys who are not Youthful Offender certified.

Performance Requirements:

Attorneys who accept assignment on Youthful Offender cases must represent their clients at all stages of the proceeding in the Juvenile/District Court.

In the event of a final conviction, it is the responsibility of the trial attorney to file a Notice of Appeal and Motion to Withdraw and to notify CPCS of the need for appellate counsel to be appointed.

By accepting Youthful Offender cases, attorneys agree to abide by the CPCS Performance Standards Governing Representation of Indigent Juveniles in Delinquency and Criminal Cases, and the CPCS Performance Standards Governing Representation of Indigents in Criminal Cases, which are found in this manual.